

November 13, 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
PRIVATE FUEL STORAGE, L.L.C.)	Docket No. 72-22-ISFSI
)	
(Independent Spent)	
Fuel Storage Installation))	

NRC STAFF'S OBJECTIONS AND RESPONSES TO "STATE OF UTAH'S
NINTH SET OF DISCOVERY REQUESTS DIRECTED TO THE NRC STAFF"

INTRODUCTION

On November 1, 2000, the State of Utah ("State") filed the "State of Utah's Ninth Set of Discovery Requests Directed to the NRC Staff" ("Request"), concerning the application for an Independent Spent Fuel Storage Installation ("ISFSI") filed by Private Fuel Storage, L.L.C. ("PFS" or "Applicant"). In its Request, the State filed 42 requests for admission, two interrogatories, and 11 document requests. The discovery requests pertain to Utah Contention K ("Inadequate Consideration of Credible Accidents"). The NRC Staff ("Staff") hereby files its objections and responses to the State's Request.

GENERAL OBJECTIONS

Objection 1. The Staff objects to each of the State's discovery requests, in that the State has not complied with the Commission's regulations that govern discovery from the Staff. In this regard, it is well established that discovery against the Staff rests on a different footing than discovery in general. *Consumers Power Co.* (Midland Plant, Units 1 and 2), ALAB-634, 13 NRC 96, 97-98 (1981). While discovery from parties in an NRC adjudicatory proceeding is generally governed by the provisions of 10 C.F.R. § 2.740 *et seq.*, interrogatory and document discovery against the Staff is governed by the provisions

of 10 C.F.R. §§ 2.720(h)(ii)-(iii), 2.744, and 2.790. These regulations establish certain limits to the Staff's obligation to respond to requests for discovery.

In particular, with regard to interrogatories, the Commission's rules provide:

[A] party may file with the presiding officer written interrogatories to be answered by NRC personnel with knowledge of the facts designated by the Executive Director for Operations. Upon a finding by the presiding officer that answers to the interrogatories are necessary to a proper decision in the proceeding and that answers to the interrogatories are not reasonably obtainable from any other source, the presiding officer may require that the staff answer the interrogatories.

10 C.F.R. § 2.720(h)(2)(ii). With regard to requests for the production of documents, the Commission's rules similarly provide:

(a) A request for the production of an NRC record or document not available pursuant to 10 C.F.R. § 2.790 . . . shall set forth the records or documents requested, either by individual item or by category, and shall describe each item or category with reasonable particularity and shall state why that record or document is relevant to the proceeding.

(b) If the Executive Director for Operations objects to producing a requested record or document on the ground that (1) it is not relevant or (2) it is exempted from disclosure under § 2.790 and the disclosure is not necessary to a proper decision in the proceeding or the document or the information therein is reasonably obtainable from another source, he shall so advise the requesting party.

10 C.F.R. § 2.744(b). The rule further provides for application by the requesting party to the presiding officer to compel production of the documents, where the movant shows that the document is relevant to the issues in the proceeding; and the document is not exempt from disclosure under 10 C.F.R. § 2.790 -- or, if exempt, that the document or information is necessary to a proper decision in the proceeding and is not reasonably obtainable from another source. 10 C.F.R. §§ 2.744(c)-(d).

Moreover, it is an adequate response to any discovery request for a party to state that the information or document requested is available in the public domain and to provide information to locate the material requested. 10 C.F.R. § 2.740(b)(1); *accord, Metropolitan Edison Co.* (Three Mile Island Nuclear Station, Unit No. 1), CLI-79-8, 10 NRC 141, 147-48 (1979).

Here, the State has not complied with any of the Commission's requirements governing discovery against the Staff. First, the State has indicated that it is unaware of what documents support the Staff's representations in the Safety Evaluation Report (Request at 7-8),¹ and, therefore, the requested documents and information are not available in the public domain. In this regard, the Staff does not agree that the State's lack of knowledge as to the documents it seeks results in them not being available in the public domain. Further, the Staff notes that much of the requested information and documents are, in fact, readily available to the State through its access to publicly available documents. The State, moreover, is well aware of the fact that many of the requested documents are available in the public domain, having been informed long ago that documents are available in the Public Document Room (PDR) or the former Local PDR (LPDR) that was established in Salt Lake City (which, the Staff understands, continues to maintain the documents which it received prior to its official closure). Second, the State has not indicated, as is required under Commission regulations, that the requested information and documents are exempt from disclosure under 10 C.F.R. § 2.790 or that it cannot obtain the documents from public sources. Similarly, to the extent that the documents may be exempt from disclosure, the State has not explained why each of the exempt items is necessary to a proper decision in

¹"Safety Evaluation Report Concerning the Private Fuel Storage Facility -- Docket No. 72-22," dated September 29, 2000 ("SER").

the proceeding. Further, as set forth in Objection 2 below, the State has not shown that the requested documents are relevant to the issues in the proceeding. For all of these reasons, the Staff objects to the State's discovery requests.

Objection 2. The Staff objects to each of the State's discovery requests, insofar as they request information that is not relevant to the issues in this proceeding or that exceeds the scope of admitted contentions in this proceeding.

Objection 3. The Staff objects to the State's discovery requests insofar as they relate to matters which are outside the jurisdiction of the NRC or are beyond the proper scope of this proceeding.

Objection 4. The Staff objects to each of the State's discovery requests, insofar as they seek to impose an obligation to respond that is different from or greater than the obligations imposed by Commission regulations, as set forth in 10 C.F.R. Part 2. *See, e.g.*, Instruction B, "Lack of Information" (Request at 2).

Objection 5. The Staff objects to each of the State's discovery requests, insofar as they may request information or documents protected under the attorney-client privilege, the doctrines governing the disclosure of attorney work product and trial preparation materials, or any other privilege or exemption that warrants or permits the non-disclosure of documents under the Freedom of Information Act, as set forth in 10 C.F.R. § 2.790(a). Notwithstanding this objection, the Staff will supplement its privilege log to identify any additional documents that are sought to be withheld from discovery as privileged, and will produce that log to the State.

RESPONSES TO DISCOVERY REQUESTS

Notwithstanding the above objections to the State's Ninth Discovery Request, and without waiving these objections or its right to interpose these or other objections in the

future, the Staff hereby voluntarily provides the following responses to the State's discovery requests.

A. Requests for Admissions - Contention Utah K.

REQUEST FOR ADMISSION NO. 1 - UTAH K. Admit that the term "team of experts" used in the SER was originated by NRC Staff. *See e.g.*, SER at 15-53.

STAFF RESPONSE.

Admit.

REQUEST FOR ADMISSION NO. 2 - UTAH K. Admit that the term "PFS expert panel" used in the SER was originated by NRC Staff. *See e.g.*, SER at 15-53.

STAFF RESPONSE.

Admit.

REQUEST FOR ADMISSION NO. 3 - UTAH K. Admit that the Staff found PFS's use of a ten-year average F-16 crash rate acceptable because "given the trend toward lower crash rate [sic], use of the lifetime (1975-1998) average crash rate would be overly conservative." SER at 15-50.

STAFF RESPONSE.

The Staff objects to this request on the grounds that it is ambiguous. The request mischaracterizes what the Staff found acceptable. The Staff did not find any ten-year average F-16 crash rate acceptable, but only the recent 1989-98 ten-year average. *See* SER, at 15-50 ("PFS used the more recent 10-year average crash rate in the calculations. This is acceptable . . .").

REQUEST FOR ADMISSION NO. 4 - UTAH K. Admit an average of two F-16s per year crash while flying training missions to, from, or over the Utah Test and Training Range.

STAFF RESPONSE.

The Staff objects to this request on the grounds that it is ambiguous, irrelevant, and not calculated to lead to admissible evidence. First, the Staff is not aware what is meant by the phrase “to, from, or over” the Utah Test and Training Range (“UTTR”), or which geographical limits it is meant to encompass (for example, does this phrase include UTTR-destined flights to or from California or other far-away locations?). Further, to the extent that the State is seeking an admission with respect to a yearly crash average that includes flights that do not fly over the PFS facility, the request is not relevant and is not calculated to lead to the discovery of admissible evidence. Notwithstanding this objection, the Staff lacks sufficient information to respond.

REQUEST FOR ADMISSION NO. 5 - UTAH K. Admit that the ten-year F-16 crash rate (FY89-FY98) used by PFS and accepted by the Staff is less than the most recent ten-year F-16 crash rate (FY90-FY99). See SER at 15-50.

STAFF RESPONSE.

The Staff objects to this request on the grounds that it is ambiguous and is based on an incorrect premise. The most recent ten-year F-16 crash rate is not FY1990-99, but presumably may be calculated for FY1991-00. Notwithstanding this objection, the Staff lacks sufficient information to respond.

REQUEST FOR ADMISSION NO. 6 - UTAH K. Admit that the 1999 F-16 crash rate is higher than the lifetime F-16 crash rate.

STAFF RESPONSE.

The Staff lacks sufficient information to respond.

REQUEST FOR ADMISSION NO. 7 - UTAH K. Admit that the F-16 crash rate increased between 1997 and 1998, and between 1998 and 1999.

STAFF RESPONSE.

The Staff admits that the F-16 crash rate increased between 1997 and 1998. The Staff lacks sufficient information to respond regarding the change between 1998 and 1999.

REQUEST FOR ADMISSION NO. 8 - UTAH K. Admit that the Staff accepted PFS's use of 3,871 military aircraft flights as the estimated number of aircraft flying near the PFS site in a year in its crash probability calculations. SER at 15-56.

STAFF RESPONSE.

The Staff objects to this request on the grounds that it is vague and ambiguous, and appears to mischaracterize the Applicant's data and the Staff's acceptance thereof. This request ignores the fact that the 3,871 figure represents the number military aircraft flights ("virtually all" were F-16s) that transited Skull Valley during FY1998. See "Report to Nuclear Regulatory Commission -- Aircraft Crash Impact Hazard at the Private Fuel Storage Facility," Rev. 4, dated August 10, 2000 at 8.

REQUEST FOR ADMISSION NO. 9 - UTAH K. Admit that the use of 3,871 military aircraft flights as the estimated number of aircraft flying near the PFS site in a year is based on the number of military aircraft that transited Skull Valley in fiscal year 1998. See SER at 15-49.

STAFF RESPONSE.

Admit.

REQUEST FOR ADMISSION NO. 10 - UTAH K. Admit that the use of the number of military aircraft that transited Skull Valley in fiscal year 1998 to estimate the number of military aircraft flights near the proposed PFS site does not consider any future increase in military aircraft flights in Skull Valley. See SER at 15-56.

STAFF RESPONSE.

Deny.

REQUEST FOR ADMISSION NO. 11 - UTAH K. Admit that the use of the number of military aircraft that transited Skull Valley in fiscal year 1998 does not represent an estimated number of military aircraft flights near the PFS site during the planned 40 year life of the proposed PFS facility. See SER at 15-56.

STAFF RESPONSE.

The Staff objects to this request on the grounds that it is vague and ambiguous, in that it is unclear whether the request calls for a comparison between annual rates or between a cumulative average and an annual rate. Further, this request is not relevant because the PFS application is for a twenty-year term. Cf. *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), LBP-99-35, 50 NRC 180, 189 n.3 (1999) (the relevant issue with respect to Salt Lake City Airport expansion concerns whether the expansion would have some reasonable likelihood of occurring during the 20-year term of the facility).

REQUEST FOR ADMISSION NO. 12 - UTAH K. Admit that the F-16 crash rate was higher during the beginning years of its use by the Air Force. See, *Aircraft Crash Impact Hazard at the Private Fuel Storage Facility*, Rev. 4, August 10, 2000, Table 1.

STAFF RESPONSE.

The Staff objects to this request on the grounds that the phrase "beginning years" is vague and ambiguous.

REQUEST FOR ADMISSION NO. 13 - UTAH K. Admit that military aircraft accident rates are higher during the beginning years of the life span of a particular aircraft.

STAFF RESPONSE.

The Staff objects to this request on the grounds that the phrase “beginning years” is vague and ambiguous. Notwithstanding this objection, the Staff lacks sufficient information to respond to this request.

REQUEST FOR ADMISSION NO. 14 - UTAH K. Admit that the estimated number of military aircraft flights near the PFS site used by PFS to calculate crash probability does not take into account the projected increase of military aircraft flights near the proposed PFS site due to the recent addition of F-16 squadrons recently stationed at Hill Air Force Base.

STAFF RESPONSE.

The Staff objects to this request on the grounds that it is vague and ambiguous. The Staff does not know what is meant by the State’s reference to “recent addition of F-16 squadrons recently stationed at Hill Air Force Base.” Notwithstanding this objection, the Staff lacks sufficient information to respond to this request.

REQUEST FOR ADMISSION NO. 15 - UTAH K. Admit that the site of the proposed PFS facility is located under the Sevier B military operating area (“MOA”). See, e.g. SER at 15-49.

STAFF RESPONSE.

Admit.

REQUEST FOR ADMISSION NO. 16 - UTAH K. Admit that F-16s may fly over or near the proposed PFS facility site in a tactical formation spanning two to three miles wide. See, *Aircraft Crash Impact Hazard at the Private Fuel Storage Facility*, Rev. 4, August 10, 2000, Tab E.

STAFF RESPONSE.

The Staff admits that F-16s may fly “above Skull Valley” in a tactical formation “which may be 2-3 nautical miles across and several miles deep.” See, *Aircraft Crash*

Impact Hazard at the Private Fuel Storage Facility, Rev. 4, August 10, 2000, Tab E at 2-3.

The Staff lacks sufficient information to admit or deny the request, insofar as it concerns F-16 flights "over or near the proposed PFS facility."

REQUEST FOR ADMISSION NO. 17 - UTAH K. Admit that an authorized activity in the Sevier B MOA includes tactical maneuvering.

STAFF RESPONSE.

The Staff objects to this request insofar as it improperly generalizes all areas within the MOA, without regard to exceptions for portions of the MOA (e.g., flight restrictions over populated areas). Notwithstanding this objection, generally, this request is admitted.

REQUEST FOR ADMISSION NO. 18 - UTAH K. Admit that an authorized activity in the Sevier B MOA includes threat maneuvering.

STAFF RESPONSE.

The Staff objects to this request insofar as it improperly generalizes all areas within the MOA, without regard to exceptions for portions of the MOA (e.g., flight restrictions over populated areas). Notwithstanding this objection, the Staff lacks sufficient information to respond to this request.

REQUEST FOR ADMISSION NO. 19 - UTAH K. Admit that military aircraft may fly over or near the proposed PFS site more than once during a single training mission.

STAFF RESPONSE.

The Staff lacks sufficient information to respond to this request.

REQUEST FOR ADMISSION NO. 20 - UTAH K. Admit that air-to-air combat training is authorized in the Sevier B MOA.

STAFF RESPONSE.

The Staff objects to this request insofar as it improperly generalizes all areas within the MOA, without regard to exceptions for portions of the MOA (e.g., flight restrictions over populated areas). Notwithstanding this objection, generally this request is admitted.

REQUEST FOR ADMISSION NO. 21 - UTAH K. Admit that low altitude training is authorized in the Sevier B MOA.

STAFF RESPONSE.

The Staff objects to this request insofar as it improperly generalizes all areas within the MOA, without regard to exceptions for portions of the MOA (e.g., flight restrictions over populated areas). Notwithstanding this objection, generally this request is admitted.

REQUEST FOR ADMISSION NO. 22 - UTAH K. Admit that major military air exercises are authorized in the Sevier B MOA.

STAFF RESPONSE.

The Staff objects to this request insofar as it improperly generalizes all areas within the MOA, without regard to exceptions for portions of the MOA (e.g., flight restrictions over populated areas). Notwithstanding this objection, generally this request is admitted.

REQUEST FOR ADMISSION NO. 23 - UTAH K. Admit that cruise missile testing is authorized in the Sevier B MOA.

STAFF RESPONSE.

The Staff objects to this request insofar as it improperly generalizes all areas within the MOA, without regard to exceptions for portions of the MOA (e.g., flight restrictions over populated areas). Notwithstanding this objection, generally this request is admitted.

REQUEST FOR ADMISSION NO. 24 - UTAH K. Admit that cruise missiles have flown over the proposed PFS site in the Sevier B MOA in accordance with the planned test flight path.

STAFF RESPONSE.

The Staff lacks sufficient information to respond to this request.

REQUEST FOR ADMISSION NO. 25 - UTAH K. Admit that advance cruise missiles have flown in the Sevier B MOA in accordance with the planned test flight path.

STAFF RESPONSE.

The Staff lacks sufficient information to respond to this request.

REQUEST FOR ADMISSION NO. 26 - UTAH K. Beyond the information provided by the Applicant, admit that NRC Staff has not independently identified the types of large footprint weapons testing conducted at the UTTR.

STAFF RESPONSE.

The Staff objects to this request on the grounds that it is vague and ambiguous, in that the phrase "large footprint weapons testing" is undefined.

REQUEST FOR ADMISSION NO. 27 - UTAH K. Admit that the published altitude of the Sevier B MOA begins at 100 feet above ground level.

STAFF RESPONSE.

Admit.

REQUEST FOR ADMISSION NO. 28 - UTAH K. Admit that the published altitude of the Sevier B MOA extends to 9,500 feet above mean sea level.

STAFF RESPONSE.

Admit.

REQUEST FOR ADMISSION NO. 29 - UTAH K. Admit that the calculated probability of an F-16 pilot being able to avoid the PFS facility in the event of an accident is based in part on flying under "typically visual meteorological conditions clear of clouds and visibility at least 5 miles." SER at 15-52.

STAFF RESPONSE.

Deny.

REQUEST FOR ADMISSION NO. 30 - UTAH K. Admit that the Applicant, as accepted by the NRC Staff, estimated the probability of avoiding the PFS facility at 89 percent. SER at 15-55.

STAFF RESPONSE.

The Staff objects to this request on the grounds that it is vague and ambiguous, in that (a) it ignores the range of probabilities presented by the Applicant, (b) it is imprecise with respect to the number utilized in the analysis, (c) it is unclear and confusing as to what is meant by the phrase "the Applicant, as accepted by the Staff, . . . , " and (d) it improperly mixes estimates provided by the Applicant with the estimate "accepted" by the Staff.

REQUEST FOR ADMISSION NO. 31 - UTAH K. Admit that the Applicant, as accepted by the NRC Staff, used 90 percent probability of avoiding the PFS facility in calculating the crash probability. SER at 15-55, 56.

STAFF RESPONSE.

The Staff objects to this request on the grounds that it is vague and ambiguous, in that (a) it ignores the range of probabilities presented by the Applicant, (b) it is imprecise with respect to the number utilized in the analysis, (c) it is unclear and confusing what is meant by the phrase "the Applicant, as accepted by the Staff, . . . , " and (d) it improperly mixes estimates provided by the Applicant with the estimate "accepted" by the Staff.

REQUEST FOR ADMISSION NO. 32 - UTAH K. Admit that there are no provisions in the U.S. Air Force Flight Manual, F-16 D/C, T.O. 1F-16C-1, instructing pilots to avoid structures when jettisoning ordnance.

STAFF RESPONSE.

The Staff lacks sufficient information to respond to this request.

REQUEST FOR ADMISSION NO. 33- UTAH K. Admit that NRC Staff has not independently reviewed any of the 126 F-16 aircraft accident investigation reports, referenced in the SER at 15-51, which forms the basis of PFS's assertion that pilots transiting Skull Valley will be able to avoid the facility in at least 90% of accidents. SER at 15-55.

STAFF RESPONSE.

Admit.

REQUEST FOR ADMISSION NO. 34 - UTAH K. Admit that an F-16 aircraft is designed to carry more than one MK-84 bomb.

STAFF RESPONSE.

Admit.

REQUEST FOR ADMISSION NO. 35 - UTAH K. Admit that an F-16 aircraft is designed carry more than one MK-82 bomb.

STAFF RESPONSE.

Admit.

REQUEST FOR ADMISSION NO. 36 - UTAH K. Admit that the Staff has not evaluated the probability of an unarmed warhead exploding in a fire at the PFS site.

STAFF RESPONSE.

Admit.

REQUEST FOR ADMISSION NO. 37 - UTAH K. Admit that the NRC Staff has not quantitatively evaluated the probability of a cruise missile impacting the proposed PFS facility.

STAFF RESPONSE.

Deny.

REQUEST FOR ADMISSION NO. 38 - UTAH K. Admit that the NRC Staff has not quantitatively evaluated the probability of an advanced cruise missile impacting the proposed PFS facility.

STAFF RESPONSE.

Deny.

REQUEST FOR ADMISSION NO. 39 - UTAH K. Admit that a cruise missile impacting the side of a HI-STORM cask can damage the internal canister.

STAFF RESPONSE.

The Staff objects to this request on the grounds that it is vague and ambiguous, in that the Staff does not know what is meant by the term "impacting," i.e., whether it means striking with or without an explosion. Further, the Staff objects to this request, pertaining to the consequences of an accident, as being beyond the proper scope of this contention. Utah Contention K challenges the accident design envelope of the facility -- i.e., events which are sufficiently credible as to be required to be within the "design basis" of the facility; issues pertaining to the consequences of an accident are beyond the proper scope of this contention as written.

REQUEST FOR ADMISSION NO. 40 - UTAH K. Admit that an advanced cruise missile impacting the side of a HI-STORM cask can damage the internal canister.

STAFF RESPONSE.

See response to Request for Admission 39, *supra*.

REQUEST FOR ADMISSION NO. 41 - UTAH K. Admit that the NRC Staff has not evaluated the consequence of a cruise missile impacting the side of a HI-STORM cask.

STAFF RESPONSE.

See response to Request for Admission 39, *supra*.

REQUEST FOR ADMISSION NO. 42 - UTAH K. Admit that the NRC Staff has not evaluated the consequence of an advanced cruise missile impacting the side of a HI-STORM cask.

STAFF RESPONSE.

See response to Request for Admission 39, *supra*.

B. Interrogatories - Contention Utah K

INTERROGATORY NO. 3 - UTAH K. To the extent that NRC Staff denies any or all of Admission Requests 10, 11, 24, 25, and 31 above, please explain the reasoning behind each denial, providing any documents, calculations, or correspondence used to justify this reasoning.

STAFF RESPONSE.

The Staff objects to this request inasmuch as it posits five interrogatories in the guise of a single interrogatory and, therefore, does not comport with the Board's directive that a lead party serve on the Staff not more than ten interrogatories, including "all discrete subparts." See *PFS*, LBP-98-7, 47 NRC 142, 245 (1998). Notwithstanding this objection, the Staff responds as follows:

With respect to Request for Admission 10, the Staff denies that the use of the number of military aircraft that transited Skull Valley in fiscal year 1998 to estimate the number of military aircraft flights near the proposed PFS site does not consider any future increase in military aircraft flights in Skull Valley. The Applicant did consider the projected change in military aircraft traffic in the future. See PFSF SAR Section 2.2.2.6 and Commitment Resolution Letter #17, dated September 3, 1999.

In addition, the Staff reviewed the projected change in military aircraft traffic in the future. See SER at 15-80. Based on the Federal Aviation Administration ("FAA") (FAA Long-Range Aerospace Forecasts - Fiscal Years 2015, 2020, and 2025), the military air traffic is not expected to increase appreciably, if at all, in the foreseeable future. The number of military aircraft flights handled at the FAA en route traffic control centers is projected to remain constant at 4.2 million in 1998 through 2025. Also, based on Air Force Association (1999) information, the number of U.S. Air Force aircraft decreased from 7,640 in FY 1992 to 6,228 in FY 1998. Similarly, the number of hours flown by the U.S. Air Force decreased from 2,790,000 in FY 1992 to 2,154,000 in FY 1998. Consequently, military aircraft traffic through Skull Valley, based on available projections, is expected to remain at or below the FY 1998 level, as used in the estimate of the number of military aircraft flights near the proposed PFS site.

With respect to the other Requests for Admission referenced in this interrogatory (Requests for Admission 11, 24, 25 and 31), the Staff did not deny those requests and, accordingly, no further response is required.

INTERROGATORY NO. 4 - UTAH K. To the extent that NRC Staff admits Admission Request No. 33 above, please provide all documents, calculations and correspondence used to endorse PFS's conclusion that F-16

pilots transiting Skull Valley will be able to avoid the facility in at least 90% of accidents.

STAFF RESPONSE.

The Staff objects to the numbering of this interrogatory on the basis that, for the reasons set forth with respect to the Staff's objection to the State's Interrogatory No. 3, this interrogatory should be Interrogatory No. 8. Notwithstanding this objection, the Staff responds to this request as follows: The Staff considered the Applicant's analysis, "Aircraft Crash Impact Hazard at the Private Fuel Storage Facility," through Revision 4, and the attachments thereto (August 11, 2000).

C. Document Requests - Contention Utah K

DOCUMENT REQUEST NO. 1 - UTAH K: Provide all documents, including but not limited to all memoranda, notes, correspondence, e-mails, facsimiles, calculations, assessments, evaluations, Technical Evaluation Reports and other contractor reports supporting the Staff's conclusions in SER Section 15.1.2.11 – Aircraft Crash Hazards, and SER Section 15.1.2.18 – Cruise Missile Testing at the UTTR.

STAFF RESPONSE.

Documents in response to this request will be provided or identified, to the extent that they are not (a) otherwise publicly available or (b) privileged or exempt from disclosure under 10 C.F.R. § 2.790.

DOCUMENT REQUEST NO. 2 - UTAH K: Provide all documents, including but not limited to all memoranda, notes, correspondence, e-mails, facsimiles, calculations, assessments, evaluations, prepared by NRC Staff, or its contractors, to support SER Section 15.1.2.11 – Aircraft Crash Hazards, and SER Section 15.1.2.18 – Cruise Missile Testing at the UTTR, particularly all probability calculations and all consequence calculations.

STAFF RESPONSE.

See response to Document Request No.1, *supra*.

DOCUMENT REQUEST NO. 3 - UTAH K: Provide all documents, including but not limited to all calculations, correspondence, technical reports, and other analyses prepared by NRC Staff or its contractors to support its endorsement of PFS's conclusion that "there were 11 mishaps [out of 121 mishaps analyzed], caused by reasons other than engine failure, which would have allowed the pilot sufficient time and capability to avoid a fixed surface Facility." SER at 15-54.

STAFF RESPONSE.

See response to Document Request No.1, *supra*.

DOCUMENT REQUEST NO. 4 - UTAH K: Provide all documents, calculations, correspondence, etc. which form the basis for NRC Staff's conclusion that "[i]t is also likely that a pilot would take steps to avoid striking a populated site with jettisoned ordnance." SER at 15-68.

STAFF RESPONSE.

See response to Document Request No.1, *supra*.

DOCUMENT REQUEST NO. 5 - UTAH K: Provide all documents, correspondence, or notes which quantify the military activities conducted at the Utah Test and Training Range, including the Sevier B Military Operating Area.

STAFF RESPONSE.

See response to Document Request No.1, *supra*.

DOCUMENT REQUEST NO. 6 - UTAH K: Provide all documents, correspondence, notes or communication between the NRC Staff or its contractors and employees or members of the U.S. Air Force with respect to military activities at the Utah Test and Training Range, including the Sevier B Military Operating Area.

STAFF RESPONSE.

See response to Document Request No.1, *supra*.

DOCUMENT REQUEST NO. 7 - UTAH K: Provide all documents, correspondence, notes or communication between NRC Staff or its contractors and employees or members of the U.S. Air Force with respect to any potential flight restriction over or near the proposed PFS site.

STAFF RESPONSE.

See response to Document Request No.1, *supra*.

DOCUMENT REQUEST NO. 8 - UTAH K: Provide all documents, correspondence, notes or communication between NRC Staff or its contractors and employees or members of the U.S. Army with respect to military activities at the Utah Test and Training Range, including the Sevier B Military Operating Area.

STAFF RESPONSE.

See response to Document Request No.1, *supra*.

DOCUMENT REQUEST NO. 9 - UTAH K: Provide all documents, correspondence, notes or communication between NRC Staff or its contractors and employees or members of the U.S. Army with respect to any potential flight restriction over or near the proposed PFS site.

STAFF RESPONSE.

See response to Document Request No.1, *supra*.

DOCUMENT REQUEST NO. 10 - UTAH K: Provide all documents, correspondence, notes or communication between NRC Staff or its contractors and employees or members of the Utah National Guard with respect to military activities at the Utah Test and Training Range, including the Sevier B Military Operating Area.

STAFF RESPONSE.

See response to Document Request No.1, *supra*.

DOCUMENT REQUEST NO. 11 - UTAH K: Provide all documents, correspondence, notes or communication between NRC Staff or its contractors and employees or members of the Utah National Guard with respect to any potential flight restriction over or near the proposed PFS site.

STAFF RESPONSE.

See response to Document Request No.1, *supra*.

Respectfully submitted,

A handwritten signature in cursive script that reads "Catherine Marco".

Catherine Marco
Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 13th day of November 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

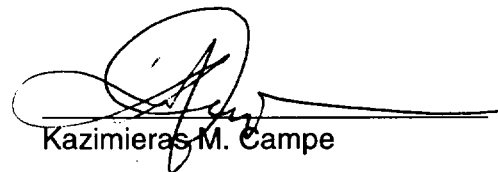
In the Matter of)
)
PRIVATE FUEL STORAGE, L.L.C.) Docket No. 72-22-ISFSI
)
(Independent Spent)
Fuel Storage Installation))

AFFIDAVIT OF KAZIMIERAS CAMPE

I, Kazimieras M. Campe, having first been duly sworn, do hereby state as follow:

1. I am employed as a Senior Reactor Engineer in the Probabilistic Safety Assessment Branch, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation. A statement of my professional qualifications is attached to the "NRC Staff's Third Supplemental Response to 'The State of Utah's First Set of Discovery Requests Directed to the NRC Staff,'" dated April 5, 2000.

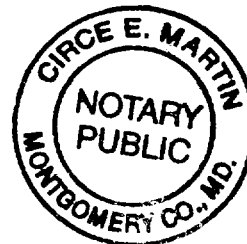
2. I have reviewed the foregoing "NRC Staff's Objections and Responses to the State of Utah's Ninth Set of Discovery Requests Directed to the NRC Staff," as they pertain to Contention Utah K and verify that they are true and correct to the best of my knowledge, information, and belief.


Kazimieras M. Campe

Sworn to before me this
13th day of November 2000


Notary Public

My Commission expires: March 1, 2003



CIRCE E. MARTIN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires March 1, 2003

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
PRIVATE FUEL STORAGE L.L.C.)	Docket No. 72-22-ISFSI
)	
(Independent Spent)	
Fuel Storage Installation))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S OBJECTIONS AND RESPONSES TO 'STATE OF UTAH'S NINTH SET OF DISCOVERY REQUESTS DIRECTED TO THE NRC STAFF'" in the above captioned proceeding have been served on the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the U.S. Postal Service, as indicated by double asterisk, with copies by electronic mail, this 13th day of November, 2000:

G. Paul Bollwerk, III, Chairman*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555
(E-mail copy to GPB@NRC.GOV)

Office of the Secretary*
ATTN: Rulemakings and Adjudications
Staff
U.S. Nuclear Regulatory Commission
Washington, DC 20555
(E-mail copy to
HEARINGDOCKET@NRC.GOV)

Dr. Jerry R. Kline*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555
(E-mail copy to JRK2@NRC.GOV)

Office of the Commission Appellate
Adjudication
Mail Stop: 16-C-1 OWFN
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Peter S. Lam*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555
(E-mail copy to PSL@NRC.GOV)

James M. Cutchin, V*
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555
(E-mail to JMC3@NRC.GOV)

Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Jay E. Silberg, Esq.**
Ernest Blake, Esq.
Paul A. Gaukler, Esq.
SHAW, PITTMAN, POTTS &
TROWBRIDGE
2300 N Street, N.W
Washington, DC 20037-8007
(E-mail copy to jay_silberg, paul_gaukler,
and ernest_blake@shawpittman.com)

Danny Quintana, Esq.**
Danny Quintana & Associates, P.C.
68 South Main Street, Suite 600
Salt Lake City, UT 84101
(E-mail copy to quintana
@Xmission.com)

Denise Chancellor, Esq.**
Fred G Nelson, Esq.
Laura Lockhart, Esq.
Utah Attorney General's Office
160 East 300 South, 5th Floor
P.O. Box 140873
Salt Lake City, UT 84114-0873 (E-mail
copy to dchancel@State.UT.US), and
jbraxton@email.usertrust.com

Connie Nakahara, Esq.**
Utah Dep't of Environmental Quality
168 North 1950 West
P. O. Box 144810
Salt Lake City, UT 84114-4810
(E-mail copy to cnakahar@state.UT.US)

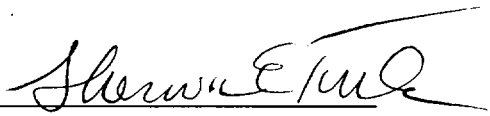
Diane Curran, Esq.**
Harmon, Curran, Spielberg & Eisenberg
1726 M Street, N.W., Suite 600
Washington, D.C. 20036
(E-mail copy to
dcurran@harmoncurran.com)

John Paul Kennedy, Sr., Esq.**
1385 Yale Ave.
Salt Lake City, UT 84105
(E-mail copy to john@kennedys.org)

Joro Walker, Esq.**
Land and Water Fund of the Rockies
2056 East 3300 South, Suite 1
Salt Lake City, UT 84109
(E-mail copy to joro61@inconnect.com)

Land and Water Fund of the Rockies**
2260 Baseline Road, Suite 200
Boulder, CO 80302

William D. (Bill) Peterson**
Pigeon Spur Fuel Storage Facility
2127 Lincoln Lane
Holladay, UT 84124
(E - m a i l c o p y t o
BillPeterson@OlympicHost.com and
paengineers@juno.com


Sherwin E. Turk /RA/
Counsel for NRC Staff